

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ANTHONY CANNON,

Plaintiff,

v.

STATE OF NEVADA, DEPARTMENT
OF HEALTH AND HUMAN
SERVICES, DIVISION OF WELFARE
AND SUPPORTIVE SERVICES, *et al.*,

Defendants.

Case No. 2:20-cv-02231-ART-NJK

ORDER

This case is brought by *pro se* plaintiff Anthony Cannon (“Cannon”) and involves various accusations related to Cannon’s employment with the State of Nevada and termination. Before the Court is Cannon’s motion for a “continuation” because he is unable to pursue his case without assistance but is unable to afford an attorney. (ECF No. 76.) For the reasons set forth below, the Court denies Cannon’s motion and dismisses this case.

I. Procedural History

Cannon filed his Complaint on December 10, 2020. (ECF No. 2.) He identified 11 claims which appear to be all related to his employment with the State of Nevada Department of Health and Human Services, Division of Welfare and Supportive Services (“DHHS”). (*Id.*) His Complaint references events that occurred in 2018 and 2019 related to disciplinary issues, termination, an investigation, and an administrative hearing. (*Id.*) His Complaint attaches a notice of dismissal and of his right to sue from the U.S. Equal Employment Opportunity Commission (“EEOC”) following their determination that they were

1 unable to conclude that the information they obtained establishes statutory
2 violations.

3 After missing the 90-day service deadline set forth in FRCP 4(m), the
4 Clerk's Office notified Cannon that his Complaint would be dismissed unless he
5 filed proof of service by May 29, 2021. (ECF No. 6.) Cannon was further informed
6 that service must have taken place prior to the expiration of the deadline set
7 forth in FRCP 4(m) or Cannon would have to show good cause why such service
8 was not made. (*Id.*) Cannon filed a response to the Clerk's Office's notice of intent
9 to dismiss and he sought leave of court for additional time to file proof of service.
10 (ECF Nos. 7, 8, 11.) The Court granted Cannon additional time to effectuate
11 service until October 1, 2021. (ECF No. 12.) Cannon filed several executed
12 summonses. (See ECF Nos. 15, 16, 17, 18, 19, 20.) Additional defendants listed
13 by Cannon in his Complaint (ECF No. 2) – Deirdre McCain, Ramon Reyes, Shelly
14 Aguilera, Mark Gentile, John Taft, and Paul Laux have not been served.

15 Defendants filed a motion to dismiss arguing that the Complaint should
16 be dismissed because of Cannon's failure to serve certain defendants, failure to
17 state a claim, lack of individual liability under Title VII, sovereign immunity, lack
18 of a private right of action to enforce criminal statute 18 U.S.C. § 1001, failure
19 to exhaust his Title VII claims, and on the basis that Linda Anderson is entitled
20 to absolute immunity for her acts as Chief Deputy Attorney General. (ECF No.
21 21.)

22 Defendants also filed motions to stay discovery and to vacate the Early
23 Neutral Evaluation ("ENE") arguing that engaging in discovery and participating
24 in an ENE would be wasteful because the Complaint was legally and factually
25 insufficient. (ECF No. 33; 35.) The Court granted the motions to vacate the ENE
26 and stay discovery. (ECF No. 36; 46; 64; 65.) The Court has also stricken two
27 unauthorized reply briefs filed by Cannon (ECF No. 62), denied without prejudice
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1 three of Cannon's motions to amend his Complaint (ECF No. 63), and denied two
2 of Cannon's motions to admit evidence (ECF No. 69).

3 Cannon filed a motion for leave to file an amended complaint (ECF No. 66)
4 and a motion for a status update (ECF No. 73). Those motions, along with
5 Defendants' motion to dismiss (ECF No. 21) were resolved by this Court on
6 November 18, 2022. (ECF No. 74.) The Court granted Cannon's motion for leave
7 to file an amended complaint, ordered the filing of Cannon's First Amended
8 Complaint (ECF No. 66-1) and dismissed the First Amended Complaint granting
9 Cannon leave to file a Second Amended Complaint within 30 days. (*Id.*)

10 More than three months have passed, and Cannon has not filed a Second
11 Amended Complaint. Instead, he has filed a Motion for Continuation. (ECF No.
12 76.) Defendants oppose the motion (ECF No. 77.) Cannon replied. (ECF No. 78.)

13 **II. Analysis**

14 To the extent that Cannon's motion (ECF No. 76) requests reconsideration
15 of the Court's previous Order, it is denied. Cannon's motion (ECF No. 76) in
16 substance attempts to relitigate the Court's previous Order (ECF No. 74)
17 essentially arguing that he has not been given the kind of expansive leeway *pro*
18 *se* litigants should be afforded. "A motion for reconsideration should not be
19 granted, absent highly unusual circumstances, unless the district court is
20 presented with newly discovered evidence, committed clear error, or if there is
21 an intervening change in the controlling law." *Kona Enterprises, Inc. v. Estate of*
22 *Bishop*, 229 F.3d877, 890 (9th Cir. 2000). As Defendants correctly note, none of
23 the reasons for reconsideration delineated in the *Kona* case are present here.

24 To the extent that Cannon's motion could be construed as seeking an
25 extension of time to file a Second Amended Complaint, his request is denied on
26 the basis that it is for an indeterminate amount of time and Cannon provides the
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1 Court with no basis to believe that he will be able to retain an attorney or that
2 any attorney could prosecute his claims.


3 Cannon has been given guidance by the Court and considerable leeway
4 given his *pro se* status, but he has been unable to articulate facts that would
5 entitle him to relief or prosecute his case in compliance with our Local Rules or
6 the Federal Rules of Civil Procedure. The Court previously cautioned Cannon
7 that its latitude is not without limitation and provided Cannon with guidance if
8 he chose to file a Second Amended Complaint. This general guidance was not a
9 substitute for Cannon's own obligation to conduct independent research and
10 prosecute his case with diligence. The Court gave Cannon 30 days to file a
11 Second Amended Complaint if he so chose. (ECF No. 74.) Cannon elected not to
12 file a Second Amended Complaint. There is currently no operative complaint and
13 no proceedings to continue. Cannon has failed to demonstrate any basis for an
14 extension of time or reconsideration. The Court thus denies Cannon's motion to
15 continue (ECF No. 76) and closes this case.

16
17 IT IS THEREFORE ORDERED that Plaintiff's Motion for Continuance (ECF
18 No. 76) is DENIED.

19 IT IS FURTHER ORDERED THAT this case is DISMISSED WITHOUT
20 PREJUDICE;

21 IT IS FURTHER ORDERED THAT the Clerk of the Court enter Judgment
22 accordingly and close this case.

23
24 DATED THIS 2nd Day of March 2023.

25
26 
27 ANNE R. TRAUM
28 UNITED STATES DISTRICT JUDGE